



WASHINGTON STATE ATTORNEY GENERAL
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AG-Request Legislation—2007 Session
Public Records Legislation

BACKGROUND

Keeping Track of Exemptions: When the voters approved the Public Disclosure Act by initiative in 1972, it included only 10 exemptions from disclosure. Now, according to a Sunshine Week story by the Associated Press, there are at least 300 exemptions—such as a 1996 exemption for ginseng records, tucked into a bill with the innocuous title, "An act relating to the department of agriculture grants of rule-making authority."

Recodification: In 2005, the Legislature moved the numerous public records portions of the Public Disclosure Act into a new chapter devoted exclusively to public records (and named it the Public Records Act). In doing so, a few provisions were missed.

Statute of Limitation: In 2005, the Attorney General requested both an increase in the daily penalty for violating the Public Records Act and a decrease in the statute of limitation for a claim from five years to one year. The Legislature passed a bill shortening the statute of limitation to one year after an agency claims an exemption or provides records. (The Legislature did not adopt the Attorney General's proposed penalty increase.)

THE PROBLEMS

Exemptions: Access to public information is increasingly at risk. Two main concerns:

- 1) "Stealth exemptions" sneak into law as small pieces of other legislation. There is no easy way for open-government advocates or agencies to keep track of them all.
- 2) Once in law, exemptions are never formally reviewed by independent sources for necessity.

Recodification: Several important provisions of the old law were inadvertently left out of the new Public Records Act.

Statute of Limitation: The 2005 statute of limitations bill does not address the situation where an agency simply refuses to respond to a requestor. This creates uncertainty and, without clarifying legislation, resolving it would require expensive litigation to determine which statute of limitation applies to such claims.

AG-REQUEST PUBLIC RECORDS LEGISLATION

- **"Sunshine Committee"** legislation creates a Blue-Ribbon Committee to:
 - Annually review all exemptions, including newly-passed ones; and
 - Recommend repeal or amendment of exemptions to the Public Records Act or other statutes.
 - Nine members:
 - One state-agency and one local-agency representative each appointed by the Governor;
 - One representative from State Auditor's Office;
 - One from Attorney General's Office;
 - One media-association member selected by the Attorney General; and
 - A representative from each of the four legislative caucuses in each house.
- **Recodification** legislation to clean-up the codification errors.
- **Statute of Limitation** legislation to clarify that the one-year statute of limitation applies from the date an agency is required to respond to a request or any other violation of the Public Records Act.